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INSTRUCTIONS APPLY

THE DIRECTOR OF
CENTRAL INTELLIGENCE

ON-FILE NSC RELEASE
INSTRUCTIONS APPLY

National Intelligence Council

12 March 1985

NOTE FOR: NIO/EA.
A/NIO/Economics
[redacted] C/Japan Branch, OEA

FROM: David B. Low
Acting NIO/Economics

SUBJECT: Attached LDX from Secretary Baker
to McFarlane re Japanese
Negotiations

Please let me have any comments which you
may have as soon as possible.



David B. Low

25X1

to David Low

Department
of the Treasury

Office of
International
Affairs

room: _____ date: 3/11/85

Mr. Harman asked us to get your comments on the
attached memo and lists. Please give me a
call.

*Please give me a call early
Tuesday if possible.*

Thanks,

Bill Barrera

Director
William E. Barrera
room 4428
phone 566 5305

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THE SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220



**MEMORANDUM FOR THE HONORABLE ROBERT C. MCFARLANE
ASSISTANT TO THE PRESIDENT FOR
NATIONAL SECURITY AFFAIRS
THE WHITE HOUSE**

FROM: Secretary Baker

**SUBJECT: Sectoral Negotiations with Japan: Benchmarks for
Success**

As a follow-up to Saturday's SIG, attached is a list of benchmarks for success for each of the sectors currently being discussed in our MOSS trade talks with Japan.

In the long run, rising Japanese imports of manufactured goods -- both in volume and market share -- in each of the four sectors is the proof of success. But that will take time. Our preliminary judgment will have to be based on whether Japan's actions a) remove barriers that are obvious from the start and b) are sufficiently meaningful to show that the Japanese recognize the extent of the problem and that they are responsive.

The attached lists of benchmarks therefore indicate what we think is necessary to show that market access is widening and that real change is on the way. The lists are not final for four reasons --

- 1) MOSS is still in its early stages and is just beginning to identify invisible market barriers. Since they are based on existing knowledge, the lists focus on specific visible barriers. We need to complete the MOSS exercise in order to identify additional barriers, both visible and invisible.
- 2) U.S. industry is also just starting to identify barriers.
- 3) New barriers may turn up as previously identified ones are removed. Success then depends on continued Japanese willingness to act in response to those new barriers.

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- 4) U.S. negotiators should have sufficient flexibility to develop other criteria for success during talks with the Japanese.

Many of the items on the lists reflect four principles of general application, but especially so with regard to product standards, such as those involving telecommunications.

- 1) No discrimination between foreign and domestic suppliers.
- 2) Clear, specific criteria for all decisions by administering officials to prevent discretion from being used to hurt or discourage U.S. firms.
- 3) A transparent system for standards approval, equipment certification and appeals independent of Japanese producers.
- 4) Standards stated in terms of performance (not design) and only as necessary to prevent harm to the telecommunications system.

Of the four sectors, telecommunications is by far the most advanced in terms of time spent discussing regulations.

In April, Japan intends to announce another "package" of trade liberalizing measures. We need to recall that MOSS is a long-term exercise; we don't want to get caught up in another package deal that accomplishes limited goals.

One last note: The following list identifies benchmarks that are necessary but not sufficient indicators of progress. In no way should we give the Japanese the impression that the achievement of any such list would signal completion of the MOSS talks.

Attachment

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TELECOMMUNICATIONS

By May

1. Elimination of a prior registration and approval process for Special Type II VANS ("Value Added Networks"); treatment of this kind of telecommunication services should be identical with treatment accorded General Type II VANS (i.e. prior notification by the applicant that standards have been met but no bureaucratic controlled review process prior to approval which requires disclosure of proprietary business data).
2. Elimination of arbitrary criteria applicable to Special Type II VANS, criteria which have no technical relevance but would make participation by American suppliers more difficult, i.e. now a van becomes "Special" if: 1) it is linked in any way to an international terminal; 2) it has "many and unspecified" users and 3) if its capacity exceeds 500 lines and 1250 bits per second.
3. Foreign suppliers must be authorized to "self certify" that their equipment meets Japanese technical specifications, and the equipment should be subjected to no further examination.
4. Adoption of the U.S. standard that all equipment is acceptable for sale in the private market so long as it will not "harm the network".
5. Establishment of a single independent agency for approval of all telecommunication equipment proposed by all prospective suppliers, including NTT (Nippon Telegraph and Telephone Corporation). NTT should not be involved in approving the equipment of foreign competitor firms, nor should members of competitor Japanese companies be involved in equipment approvals.
6. Selection of foreign experts to participate on the Telecommunications Advisory Council which will consider and make recommendations regarding new and existing telecommunications regulations.
7. Foreign suppliers must be given the opportunity to comment on proposed standards far enough in advance so that their views are given adequate consideration prior to the implementation of new requirements.
8. An appeal process external to the Ministry of Post and Telecommunications, so that complaints of discrimination can be reviewed and action taken promptly.
9. Establishment of safeguard procedures to prevent cross-subsidization by NTT after April 1 when it will be split into partially government and partially private entities.

By December

(Other broader objectives will be identified in MOSS talks to begin in April.)

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Sectoral Negotiations

Electronics

By May

- Acceptance for certification of test results done in the U.S. as we accept Japanese test data.
- Full Japanese acceptance of copyright protection for computer software; no compulsory licensing of software.
- Willingness to consider all following items for December implementation.

By December

- Adoption by the Japanese Diet of a semiconductor bill which affords substantially similar protection of design and other intellectual property to that afforded Japanese firms by the U.S. chip protection law.
- Incorporation of U.S. suggestions to ensure Japan's proposed new law on promotion of high technology industries does not give Japanese industries an unfair advantage and does not distort trade.
- Participation by U.S. industry in the preparation of Japanese industrial standards.
- Prompt and streamlined Japanese patent issuance for electronic products. Maintenance of the confidentiality of information contained in applications.
- U.S. company access and full participation in GOJ-directed or subsidized R&D projects as well as to any GOJ jointly-owned patents or technical know-how resulting from the projects.
- Elimination of Japanese tariffs on electronics goods, notably computer parts and test equipment.
- Streamlining Japanese customs procedures to expedite clearance of electronics imports. (One day service.)

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Sectoral Negotiations

Forest Products: Wood and Paper

By May

- Agreement to negotiate on elimination of tariffs.
- Commitment in principle to accept U.S. certification that products comply with Japanese standards.

By December

- Elimination of Japanese tariffs on veneers, softwood plywood and particleboard, by a date certain.
- Elimination or at least deep cuts of Japanese tariffs on kraftliner, linerboard, and other paper and board products.
- Elimination of Japanese tariffs on laminated beams and lumber, pine lumber, medium density fiberboard and moulding.
- Assurance that GOJ will not establish a cartel, formal or informal, in the plywood or paper industries and that economic adjustment will occur through market forces. Japanese PTC investigation to determine if anti-import behavior exists. If so, issuance of cease and desist orders.
- Modification of Japanese standards for structural plywood so that U.S. softwood plywood complies.
- Commitment to include U.S. industry in the development of Japanese standards for structural particleboard.
- Acceptance of U.S. inspection and certification that our products comply with Japanese lumber and plywood standards.

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Sectoral Negotiations

Medical Equipment and Pharmaceuticals

By May

- Approval of medical devices and pharmaceuticals based on acceptance of all foreign test data, including tests on humans, with sufficient safeguards for racial and environmental differences.
- Adoption of notifications-only system for: products receiving minor modifications; products whose country of manufacture has been changed; and change of address of the importer.
- Removal of restrictions on the transfer of pharmaceutical manufacturing licenses.

By December

- Transparent rulemaking procedures and assured appeal mechanism (e.g., presentation of applicant's own case before the New Drug Review Committee).
- Transparent health insurance decision procedures.
- Elimination of Japanese tariffs on medical equipment and pharmaceuticals.
- Speedy approval of chemicals that perform diagnostic tests outside the body.

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